

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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FAIR ISAAC CORPORATION,

Court File No. 16-cv-1054 (WMW/DTS)

Plaintiff,

v.

FEDERAL INSURANCE COMPANY,  
an Indiana corporation, and ACE  
AMERICAN INSURANCE COMPANY,  
a Pennsylvania corporation,

Defendants.

**DECLARATION OF  
TERRENCE J. FLEMING IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT OF FEDERAL'S  
LIABILITY FOR BREACH OF  
CONTRACT**

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I, Terrence J. Fleming, declare as follows:

1. I am an attorney at Fredrikson & Byron, P.A. and am one of the attorneys representing Defendants Federal Insurance Company and ACE American Insurance Company in this case.

2. Attached as **Exhibit 1** is a true and correct copy of excerpts from The Chubb Corporation's 2006 Form 10-K filing with the United States Securities and Exchange Commission.

3. Attached as **Exhibit 2** is a true and correct copy of an email that William Waid sent to Mark Layden on March 1, 2006 and its excerpted attachment. (FICO0005480-5498)

4. Attached as **Exhibit 3** is a true and correct copy of an email that Sally Holt sent to William Waid on December 1, 2006 and its excerpted attachment. (FICO0005621-5640)

5. Attached as **Exhibit 4** is a true and correct copy of an email that Michael Gordon sent to John Haines and others on May 5, 2006. (FICO0001794-1795)

6. Attached as **Exhibit 5** is a true and correct copy of excerpts from the transcript of the February 26, 2019 deposition of Lawrence Wachs.

7. Attached as **Exhibit 6** is a true and correct copy of excerpts from the transcript of the February 6, 2019 deposition of Jandeen Boone.

8. Attached as **Exhibit 7** is a true and correct copy of an email that William Waid sent to John Haines on April 4, 2006. (FICO0001927)

9. Attached as **Exhibit 8** is a true and correct copy of an email that John Haines sent to William Waid and Lawrence Wachs on June 16, 2006. (FICO0001895-1898.)

10. Attached as **Exhibit 9** is a true and correct copy of an email that Lawrence Wachs sent to Mark Layden and others on December 12, 2006. (FICO0001803-1804.)

11. Attached as **Exhibit 10** is a true and correct copy of Amendment Two to the Software License and Services Agreement dated December 28, 2006 as well as attached "Contract Notes." (FED000043\_0001-0004.)

12. Attached as **Exhibit 11** is a true and correct copy of Deposition Exhibit 332 from this matter.

13. Attached as **Exhibit 12** is a true and correct copy of an email that Michael Sawyer sent Russell Schreiber on November 14, 2008 and excerpts from the attached Chubb Annual Report. (FICO0002101-2151)

14. Attached as **Exhibit 13** is a true and correct copy of an email that Michael Sawyer sent to Clayton Dukes and the attached Chubb Blaze Application presentation. (FICO0005450-5453)

15. Attached as **Exhibit 14** is a true and correct copy of excerpts from the transcript of the January 18, 2019 deposition of Tamra Pawloski.

16. Attached as **Exhibit 15** is a true and correct copy of an email that Thomas Carretta sent to Andrew Hopp on March 11, 2016. (FICO0000767)

17. Attached as **Exhibit 16** is a true and correct copy of an email that Tamra Pawloski sent to Bill Waid on March 23, 2016. (FICO0002842-2846)

18. Attached as **Exhibit 17** is a true and correct copy of an email and attachment that Michael Sawyer sent to Tamra Pawloski on March 2, 2016. (FICO0002785-2788)

19. Attached as **Exhibit 18** is a true and correct copy of an email that Bill Waid sent to William Harlam on March 27, 2016. (FICO0004443-4445)

20. Attached as **Exhibit 19** is a true and correct copy of an email that Paul Swyny sent to Michael Sawyer and others on March 21, 2016. (FICO0000715-721)

21. Attached as **Exhibit 20** is a true and correct copy of an email that Oliver Brynteson sent to Oliver Clark on August 28, 2012. (FICO0002015-2022)

22. Attached as **Exhibit 21** is a true and correct copy of excerpts from the transcript of the October 2, 2018 deposition of Michael Sawyer.

23. Attached as **Exhibit 22** is a true and correct copy of excerpts from the transcript of the October 24, 2018 deposition of Russell Schreiber.

24. Attached as **Exhibit 23** is a true and correct copy of an email that Michael Sawyer sent to Paul Swyny and others on March 23, 2016. (FICO0000619-626)

25. Attached as **Exhibit 24** is a true and correct copy of Deposition Exhibit 57 from this matter.

26. Attached as **Exhibit 25** is a true and correct copy of Deposition Exhibit 58 from this matter.

27. Attached as **Exhibit 26** is a true and correct copy of an email that Henry Mirolyuz sent to Michael Sawyer on August 26, 2013. (FED009157\_0001-0003)

28. Attached as **Exhibit 27** is a true and correct copy of a Calendar Entry for a meeting between individuals from Fair Isaac Corporation, Chubb, and AppCentrica on September 4, 2013. (FED001537\_0001)

29. Attached as **Exhibit 28** is a true and correct copy of an email that Henry Mirolyuz sent to Michael Sawyer on September 3, 2013. (FED008847\_0001-0002)

30. Attached as **Exhibit 29** is a true and correct copy of a calendar invite acceptance by Ken Kitamura of AppCentrica. (FED009164\_0001-0002)

31. Attached as **Exhibit 30** is a true and correct copy of Federal's Fifth Supplemental Answer to Plaintiff's Interrogatory No. 20.

32. Attached as **Exhibit 31** is a true and correct copy of Deposition Exhibit 380 from this matter.

33. Attached as **Exhibit 32** is a true and correct copy of excerpts from the transcript of the March 14, 2019 deposition of Christopher Ivey.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: August 26, 2019

s/ Terrence J. Fleming\_\_\_\_\_